

### **Remarks**

Claims 1- 19 remain pending. Claims 1 through 15 have been amended herein. Claims 18 and 19 are new claims. The Office Action set a shortened statutory period of three months which expired January 10, 2002. This amendment is mailed on February 11, 2002, pursuant to the Rule 8 Certificate appearing below. An accompanying Request for a One-Month Extension of Time extends the statutory period to February 11, 2002. Accordingly, applicant herewith submits a check for the applicable fee of \$55.00 as set forth in 37 CFR 1.17(a)(1).

#### **1. Claim Rejection 35 U.S.C. §112**

Claims 1 and 15 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 4 and 15 have been amended herein to define applicant's invention in compliance with 35 U.S.C. 112, second paragraph.

#### **2. Claim Rejections 35 U.S.C. §103**

Claims 1-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rehbein in view of Manassa. Claims 1-17 are believed patentable as amended. The combination of Rehbein and Manassa, even if proper, would fail to yield the modular deck panel system and apparatus of the present claims, e.g., the combination would fail to yield a plurality modular panels and a plurality of elongated panel support members, said plurality of panel support members being secured to the joist elements to restrain the plurality of modular panels, as in claims 1 – 12.

#### **3. Request for Reconsideration and Allowance**

Based upon the above Amendments and Remarks, claims 1-19 are believed to be in proper form for allowance, and patentable over the prior art made of record. Applicant respectfully requests reconsideration of those claims and a prompt Notice of Allowance thereon.

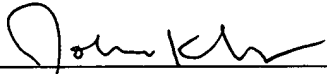
Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned "Version with markings to show changes made."

Please direct any questions or comments regarding this application to John F. Klos at (612) 321-2806.

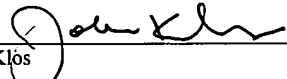
Respectfully submitted,

John Potter, by his attorneys,

Date: February 11, 2002

  
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**CERTIFICATE OF MAILING UNDER 37 CFR 1.8:** I hereby certify that this paper and any papers referred to herein are being deposited with the U.S. Postal Service, as first class mail, postage prepaid, addressed to the Honorable Commissioner of Patents, Washington, D.C. 20231 on February 11, 2002.

  
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John F. Klos

VERSION WITH SLARKINGS TO SHOW CHANGES MADE (2/11/02)

1. A modular deck panel apparatus for a deck structure including a plurality of underlying [support] joist elements, said modular deck panel apparatus comprising:

a plurality of modular panels, each of the plurality of modular panels having a first substantially planar element being relatively inflexible[;], and

a second substantially planar element disposed beneath the first planar element and secured thereto, said second planar element being relatively flexible in relation to the first planar element[, and said second planar element for carrying the deck panel upon at least one of the plurality of support elements of the deck structure]; and

a plurality of elongated members, at least some of the plurality of elongated members being secured to a series of underlying joist elements to restrain the plurality of modular panels.

2. (amended) A modular deck panel apparatus according to claim 1, wherein the first planar element is either a natural stone product or a cement-based product.

3. (amended) A modular deck panel apparatus according to claim 1, wherein the second planar element is a [plywood] fiberglass composite structure.

4. (amended) A modular deck panel apparatus for a deck structure including a plurality of horizontal [support] joist elements, said modular deck panel apparatus comprising:

a plurality of modular panels, each having a first substantially planar element being relatively inflexible and of a material selected from among the group including: stone, mineral, tile, and concrete product; and

a second substantially planar element of a material different than the first planar element, said second planar element being disposed beneath the first planar element and coupled thereto, said second planar element having a predetermined total area, said second planar element supporting the deck panel upon the deck structure at a panel support area, said panel support area

being substantially smaller than the predetermined total area[, and said second planar element carrying substantially all of a tensile load imposed upon the deck panel]; and

a plurality of elongated members, at least some of the plurality of elongated members being secured to a series of horizontal joist elements to restrain the plurality of modular panels.

5. (amended) A modular deck panel apparatus of claim 4 wherein the first planar element is adhesively secured to the second planar element.

6. (amended) A modular deck panel apparatus of claim 4 wherein the second planar element is of a composite material.

7. (amended) A modular deck panel apparatus of claim 4 wherein the panel support area is proximate to a periphery of the deck panel.

8. (amended) A modular deck panel apparatus of [claim 4wherein] claim 4 wherein the panel support area is proximate to a pair of opposed edges of the deck panel.

9. (amended) A modular deck panel apparatus of claim 4 wherein the first planar element and second planar element are equivalent in size.

10. (amended) A modular deck panel apparatus of claim 4 wherein the first planar element and second planar element are generally square in shape.

11. (amended) A modular deck panel apparatus of claim 4 wherein panel support areas cooperate with portions of the horizontal [support] joist elements of the deck structure.

12. (amended) A deck structure comprising:

a deck frame including a series of [transversely extending] joists arranged at a generally uniform [close] spacing [in the longitudinal direction of the deck structure]; and

a [series] plurality of modular panels [arranged in abutting relationship overlying and] secured to said [joists] deck frame by a plurality of elongated members, at least some of said plurality of elongated members being secured to a series of joists, each panel being of a composite layered construction including a top side and a bottom side, each panel including a first layer element defining the top side and of a material providing substantial compressive

strength and limited tensile strength, each panel further including a second layer element defining the bottom side and coupled to the first layer element, said second layer element of a material providing substantial tensile strength[, the panels being arranged longitudinally such that they abut over said joists, the abutting ends of the panels being secured to the underlying joists by a fastening structure].

13. (amended) A building product for flooring an area of substructure, said building product comprising:

a plurality of modular panels [arranged in abutting relationship overlying and] secured to the substructure by a plurality of elongated members, at least some of the elongated members being secured across a series of joists, each panel being of a composite layered construction including a top side and a bottom side, each panel including a first layer element defining the top side and of a material providing substantial compressive strength and limited tensile strength, each panel further including a second layer element defining the bottom side and coupled to the first layer element, said second layer element of a material providing substantial tensile strength.

14. (amended) A building product according to claim 13 wherein the substructure is defined by a deck structure and includes a plurality of spaced joists, and wherein the plurality of modular panels are secured by the plurality of elongated members to the spaced joists.

15. (amended) A building product according to claim [13] 14 wherein the panels [being] are arranged longitudinally such that they abut over said joists[, the abutting ends of the panels being secured to the underlying joists by a fastening structure].

18. (new) A building product according to claim 13 wherein the plurality of elongated members are secured in a grid-like manner to the substructure to restrain the modular panels.

19. (new) A modular deck panel apparatus according to claim 1, wherein the plurality of elongated members are secured in a grid-like manner to the underlying joist elements to restrain the plurality of modular panels.

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